THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26890 of 2005

Between:

Ponnala Ravinder, S/o.P.Yellaiah

And others

… Petitioners

AND

Principle Chief Conservator of Forests, APHB Buildings,
M.J.Market, Hyderabd

And others

… Respondents

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ORDER:

The petitioners are residents of Neredpally village of Bhoopalpally Mandal in Warangal District. They are aggrieved by the letter dated 20.8.2005 of the first respondent addressed to fourth respondent whereby and whereunder the latter was requested to furnish proposals as required under Forest Conservation Act, 1980 (hereafter called, the Central Act) as the land where the fourth respondent wants to establish 1 X 500 MW thermal power station falls within the extension forest block of said village, which was notified under A.P. Forest Act, 1967 (hereafter called, the State Act). The petitioners, therefore, seek a writ of Mandamus declaring the said letter of the first respondent as illegal, arbitrary and violative of Section 10 of the State Act.

The petitioners claim that they belong to scheduled caste/ scheduled tribe and backward classes and they were assigned lands in survey Nos.436, 436/105,

436/220, 436/221 and 436/222 of Neredpally village. The village is situated adjacent to Thadicherla reserve forest block. The Government proposed to extend the said forest block to an extent of Acs.905.00 in survey No.436 of Neredpally village out of total extent of Acs.2,036.18 gts., under the State Act. Accordingly, the said area was notified under Section 4 of the State Act by a notification vide G.O.Ms. No.1486, dated 18.8.1969. The Forest Settlement Officer, the third respondent herein, after following necessary procedure issued orders on 02.6.2005 excluding Acs.905.00 in survey No.436, which was notified for proposed extension of reserve forest block. In the meanwhile, the fourth respondent proposed to set up coal based 500 MW capacity thermal power station and approached the first respondent for necessary clearance whereupon the impugned letter was issued.

The learned Counsel for the petitioners contends that when the third respondent specifically excluded the land in survey No.436 including that of the petitioners, it was improper for the fourth respondent to have come to the conclusion that the land is in forest area. According to the learned Counsel, initially the Government of Andhra Pradesh initiated proceedings under Land Acquisition Act, 1894 to acquire the land in forest sub divisions of survey No.436 of Neredpally village and therefore the land owned by the petitioners is not forest land or the land proposed to extend the reserve forest block. **Per contra**, the learned Standing Counsel for A.P.Genco and the learned Assistant Government Pleader for Forest submit that the department is taking necessary steps for filing appropriate appeal against the orders of the Settlement Officer dated 02.6.2005 and that the same has not become final. It is also contended that even if the land is ordered to be notified as reserve forest block unless and until a final notification is issued under the State Act, by reason of the notification under Section 4 of the State Act, the land in question continues to be the land on which no non-forest activity can be undertaken. The learned Standing Counsel for A.P. Genco further submits that after receiving the communication from the first respondent, A.P. Genco has taken a decision to establish thermal power station at a different place and has already identified a new site, which is free from any of the problems pointed out by A.P. Pollution Control Board or the first respondent.

A reading of the impugned letter would show that after receiving the requisition from the fourth respondent, the first respondent directed the second respondent to submit a report. By letter dated 05.8.2005, the second respondent sent a report to the effect that when once the land is notified under Section 4 of the State Act, the same would also come within the purview of the Central Act and even the proposals for denotification attracts the provisions. While requesting the first respondent to take necessary steps for cancellation of the orders of the Settlement Officer, the second respondent informed that the area of Acs.905.00 is also covered by reserve forest block. Based on the said letter, the first respondent advised the fourth respondent to send proposals as required under the Central Act. Insofar as the action taken by the first respondent is concerned, the same does not suffer from any illegality. It is well settled that by reason of the Central Act, no forest land in India can be used for non-forest purposes unless and until the Central Government permits conversion of forest land for non-forest purposes. Therefore, the impugned order is unexceptional.

Secondly, even according to the petitioners, the notification issued under Section 4 of the State Act proposing to extend the reserve forest block so as to include Acs.905.00 of land in survey No.436 remains intact and therefore, as rightly pointed out by the second respondent, the provisions of the Central Act do apply and the fourth respondent cannot be permitted to set up the thermal power station. Furthermore, A.P. Genco having regard to the objections raised by the first respondent as well as A.P. Pollution Control Board has identified alternative site for setting up thermal power station. Therefore, the petitioner cannot have any grievance. As the petitioners' request for excluding the land was allegedly accepted by the Settlement Officer, the petitioners have to approach the Settlement Officer for appropriate relief when the fourth respondent itself has no grievance about the impugned letter of the first respondent.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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December 16, 2005. (**V.V.S. RAO,J**)

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